

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

IN RE JOHN TURNER,

Petitioner.

Case No. 2:14-cv-01310-APG-PAL

ORDER

(Mtn to Waive Fees - Dkt. ##1, 2)

This matter is before the court on Petitioner John Turner's Motion for Order Waiving Filing Fees for Supreme Court of Nevada Case (Dkt. #1) and Motion for Order Waiving Filing Fees (Dkt. #2). Turner is a prisoner who is proceeding in this action pro se. This proceeding was referred to this court by Local Rule IB 1-9.

Plaintiff did not pay the required filing fee of \$350.00, or file an application to proceed in forma pauperis in compliance with 28 U.S.C. § 1915(a) and Local Rules LSR 1-1 and 1-2. Additionally, he has not filed a complaint to commence an action in this court stating the basis for this court's jurisdiction to interfere with a filing fee requirement of the Nevada Supreme Court. *See* Fed. R. Civ. P. 3 ("A civil action is commenced by filing a complaint with the court."); Fed. R. Civ. P. 8. A complaint must contain a "short and plain statement" of the basis for the court's jurisdiction, a statement of the claim showing Plaintiff is entitled to relief, and a demand for the relief sought. *See* Fed. R. Civ. P. 8. The court cannot determine whether Turner has requested relief from the filing fee requirement from the Nevada Supreme Court from the information he has provided.

If Plaintiff chooses to file an application to proceed in forma pauperis, he will be required to pay the entire filing fee of \$350.00 from his inmate trust account in months where the balance exceeds ten dollars pursuant to 28 U.S.C. § 1915(b)(1), even if this matter is dismissed. It does not appear this court has jurisdiction to require the Nevada Supreme Court to waive its filing fee.

1 Turner's motion does not state a federal claim. If Turner believes he can state a federal claim, he
 2 must submit a complaint with an application to proceed in forma pauperis. Alternatively, he may
 3 pay the filing fee and file a complaint. If Turner files an application to proceed in forma
 4 pauperis, the court is required to screen his complaint to determine whether it states a claim on
 5 which relief can be granted by this federal court. As indicated, if the court finds his complaint
 6 does not state a federal claim on which relief may be granted, the complaint will be dismissed,
 7 and Turner will be required to pay the full filing fee even though the complaint is dismissed.

8 As it appears Turner may have erroneously filed the requests to waive filing fees in this
 9 court rather than before the Nevada Supreme Court, the court will allow Plaintiff an opportunity
 10 to withdraw his Motions to avoid paying the pay a filing fee in this court. If Plaintiff chooses not
 11 to do so, he must file a fully completed application to proceed in forma pauperis, with a financial
 12 affidavit signed by a representative of the institution in which he is incarcerated, and a certified
 13 copy of his inmate trust account balance sheet for the six months immediately preceding this
 14 lawsuit. *See* 28 U.S.C. § 1915(a). In addition, Plaintiff will be required to file a complaint that
 15 complies with the requirements of Rule 8 of the Federal Rules of Civil Procedure.

16 Accordingly,

17 **IT IS ORDERED** that:

- 18 1. The Clerk of the Court shall send Plaintiff a blank application form for pro se
 19 litigants who are incarcerated.
- 20 2. Plaintiff may file the application to proceed in forma pauperis no later than
 21 **December 8, 2014**, or Plaintiff may make the necessary arrangements to pay the
 22 filing fee of four hundred dollars no later than **December 8, 2014**.¹ If Plaintiff
 23 chooses to file an application to proceed in forma pauperis or pays the filing fee,

24 ///

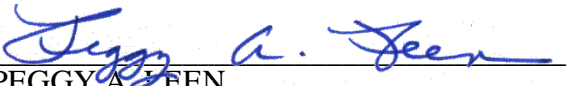
25
 26 ¹ The total civil filing fee is four hundred dollars, which is the sum of a \$350 filing fee
 27 and a fifty dollar administrative fee. If Plaintiff is granted permission to proceed in forma
 28 pauperis, however, the court does not charge the fifty dollar administrative fee. *See* U.S. District
 Court – Schedule of Fees (effective as of Dec. 1, 2013), available at www.nvd.uscourts.gov (last
 visited October 31, 2014). Accordingly, if Plaintiff chooses to pay the filing fee rather than file
 an application to proceed in forma pauperis, he must pay four hundred dollars.

1 he must also file a complaint that complies with Rule 8 of the Federal Rules of
2 Civil Procedure no later than **December 1, 2014**.

3 3. Alternatively, Plaintiff may withdraw his Motions to Waive Filing Fee (Dkt. ##1,
4 2).

5 4. Failure to comply with this order will result in a recommendation to the district
6 judge for sanctions, including case-dispositive sanctions.

7 Dated this 6th day of November, 2014.

8 
9 PEGGY A. LEEN
10 UNITED STATES MAGISTRATE JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28